

# HOUSE BILL No. 1672

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 32-8-3-5.

**Synopsis:** Mechanics liens. Eliminates the priority of a mortgage lien on commercial property over mechanics liens recorded after the mortgage lien is recorded.

**Effective:** July 1, 2001.

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**Smith M**

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January 17, 2001, read first time and referred to Committee on Judiciary.

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Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## HOUSE BILL No. 1672

A BILL FOR AN ACT to amend the Indiana Code concerning property.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 32-8-3-5, AS AMENDED BY P.L.53-1999,  
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2001]: Sec. 5. (a) ~~As used in this section, "lender" refers to:~~  
4 ~~(1) an individual;~~  
5 ~~(2) a supervised financial organization (as defined in~~  
6 ~~IC 24-4.5-1-301);~~  
7 ~~(3) an insurance company or a pension fund; or~~  
8 ~~(4) any other entity that has the authority to make loans.~~  
9 ~~(b)~~ The recorder shall record the notice, when presented, in the  
10 miscellaneous record book, for which the recorder shall charge a fee in  
11 accordance with IC 36-2-7-10. All liens so created shall relate to the  
12 time when the mechanic or other person began to perform the labor or  
13 furnish the materials or machinery. ~~Except as provided in subsection~~  
14 ~~(c);~~ All liens shall have priority over liens suffered or created  
15 thereafter, except the liens of other mechanics and materialmen, as to  
16 which there shall be no priority.  
17 (c) ~~The mortgage of a lender has priority over all liens under this~~

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chapter recorded after the date the mortgage was recorded to the extent of the funds actually owed to the lender for the specific project to which the lien rights relate. This subsection does not apply to a lien that relates to a construction contract for the development, construction, alteration, or repair of the following:

(1) A Class 2 structure (as defined in IC 22-12-1-5) or an improvement on the same real estate auxiliary to a Class 2 structure (as defined in IC 22-12-1-5);

(2) Property that is:

(A) owned, operated, managed, or controlled by a public utility (as defined in IC 8-1-2-1); municipally owned utility (as defined in IC 8-1-2-1); joint agency (as defined in IC 8-1-2.2-2); rural electric membership corporation formed under IC 8-1-13-4; or not-for-profit utility (as defined in IC 8-1-2-125) regulated under IC 8; and

(B) intended to be used and useful for the production, transmission, delivery, or furnishing of heat, light, water, or power to the public.

SECTION 2. [EFFECTIVE JULY 1, 2001] IC 32-8-3-5, as effective on the date the mortgage lien was recorded, applies to the priority of mortgage liens recorded after June 30, 1999, and before July 1, 2001. IC 32-8-3-5, as amended by this act, applies to the priority of mortgage liens recorded after June 30, 2001.

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